

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Wentworth Road, at SE/Corner * DEPUTY ZONING COMMISSIONER
Queen Anne Road (2501-A Wentworth Road) * OF BALTIMORE COUNTY
9th Election District * Case No. 93-211-SPH
6th Councilmanic District *
William F. Clark, et ux
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owners of the subject property, William and Jeanette Clark. The Petitioners request approval of the non-conforming use of the subject property as a four family dwelling unit in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were William and Jeanette Clark, property owners. Several residents of the area appeared in opposition to the Petitioners' request, including Mary Brown and Louise Gaston, adjoining property owners, who testified as Protestants.

Testimony indicated that the subject property, known as 2501-A Wentworth Avenue, consists of 0.3188 acres, more or less, zoned D.R. 16 and is improved with a two-story building which was built in approximately the 1950s as four apartments. The building, as it exists today, was heavily damaged on the inside by virtue of a fire which occurred in August 1992. The Petitioners seek the requested approval in order to restore the subject building and continue its operation as a four-family dwelling unit.

The uncontradicted testimony offered at the hearing indicated that the subject building has existed on the property since the early 1950s. This particular building was given zoning approval as a four-apartment building on April 9, 1949 by the Board of Zoning Appeals of Baltimore

County. It was therefore legally constructed pursuant to an Order granting same in 1949. Testimony indicated that the subject building was actually constructed in the early 1950s, perhaps 1951 or 1952. It is clear that the building has existed on the site since the early 1950s and has been used as a four-apartment building continuously and without interruption since that time.

Ms. Louise Gaston and Ms. Mary Brown, two neighbors who reside immediately adjacent to the subject property, appeared and testified in opposition to the Petitioners' request. Although they could offer no testimony to rebut that presented by the Petitioners, they did point out that the Petitioners did allow an individual to reside in a make-shift apartment in the basement of the subject building. That fifth apartment is not the subject of this hearing inasmuch as the Petitioners are only requesting a nonconforming use of four apartments. The Protestants also raised concern regarding the aesthetics of the building, the junk and debris that has often accumulated in the yard, and parking problems associated with the use of this property.

As with all nonconforming use cases, it is necessary to establish the year prior to which the Petitioner must establish this use as nonconforming. That year is 1955. As previously stated, the subject property was given zoning approval for use as four apartments in April 1949; however, the law changed in 1955. The testimony demonstrated that the building was constructed prior to 1955.

The second principle to be applied, as specified in Section 104-1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the noncon-

forming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a four-apartment dwelling since prior to the applicable date relevant to establish this nonconforming use, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

"HEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of February, 1993 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a four-apartment dwelling unit, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to file a new Petition.
- 2) All tenants shall park in the appropriate spaces provided or on the street. At no time shall tenants park on the lawn.
- 3) It shall be the responsibility of the Petitioners to insure that the subject building and surrounding property are regularly maintained in good condition and kept free and clear of all trash and debris. The lawn shall be mowed on a regular basis and grass seed planted as needed to prevent any bare spots from forming.
- 4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TMK:bjs


Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 2/17/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/17/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/17/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/17/93
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204
February 17, 1993
(410) 887-4386

Mr. & Mrs. William F. Clark
319 Hampton Street
Cranford, New Jersey 07016

RE: PETITION FOR SPECIAL HEARING
S/S Wentworth Road, SE/Corner Queen Anne Road
(2501-A Wentworth Road)
9th Election District - 6th Councilmanic District
William F. Clark, et ux - Petitioners
Case No. 93-211-SPH

Dear Mr. & Mrs. Clark:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Ms. Mary Brown
2501-1/2 Wentworth Road, Baltimore, Md. 21234

Ms. Louise Gaston
2503 Wentworth Road, Baltimore, Md. 21234

People's Counsel

File

Petition for Special Hearing

2501-A Wentworth Rd 93-211-SPH PR-16
to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve that 9RA20 covers the four family house that is located on 2501 Wentworth Road

Baltimore Md. (Harford Park) as a nonconforming use BS

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

William F. Clark

(Type or Print Name)

Signature

Jeanette R. Clark

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

William F. Clark

Name

Address

City and State

Phone No.



OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING (1/2HR) +1HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
REVIEWED BY: 6 DATE: 2/27/93

ORDER RECEIVED FOR FILING
Date 2/17/93
By [Signature]

SILBERMANN & ASSOCIATES, INC.

Engineers • Planners • Surveyors

3527 EAST JOPPA ROAD
BALTIMORE, MARYLAND 21234
(410) 661-5888
FAX NO. 661-0728

93-211-SPH

BEGINNING AT A POINT ON THE SOUTH SIDE OF WENTWORTH ROAD, WHICH IS 40 FEET WIDE, AT A DISTANCE OF 38 FEET EAST OF THE CENTERLINE OF QUEEN ANNE ROAD, WHICH IS 51 FEET WIDE. THENCE THE FOLLOWING COURSES AND DISTANCES:

- 1) S 58 01' 00" E 96.59'
 - 2) S 31 59' 00" W 125.00'
 - 3) N 58 01' 00" W 101.41'
 - 4) WITH A CURVE TO THE RIGHT OF RADIUS 508.94' AND AN ARC LENGTH OF 105.47' AND CONTINUING
 - 5) WITH A CURVE TO THE RIGHT OF RADIUS 20.00' AND AN ARC LENGTH OF 32.23' TO THE PLACE OF BEGINNING
- AS RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN DEED LIBER 5462 FOLIO 266.
- BEING LOTS # 12 & 13 IN THE SUBDIVISION OF HARFORD PARK AS RECORDED IN BALTIMORE COUNTY PLAT BOOK # 19 FOLIO # 74.
- CONTAINING 13887.674 SQUARE FEET OR 0.3188 ACRES.



HARVEY SILBERMANN, P.E.
PROFESSIONAL ENGINEER
MARYLAND P.E. # 4240

221

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th Date of Posting: 2/17/93
Posted for: Special Hearing
Petitioner: Wm. & Jean. Clark
Location of property: 2501 Wentworth Rd. at Queen Anne Rd.
Location of Sign: Across roadway on property of B. F. Brown
Remarks:
Posted by: [Signature] Date of return: 2/27/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 1/15, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/14, 1993.

THE JEFFERSONIAN,

S. Zafe Orlov
Publisher

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: January 12, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee
(January 11, 1993)

The Office of Planning and Zoning has no comments on the following petition(s):

Marshall and Mildred Whipperman, Item No. 214
Tyler and Loretta Anderson, Item No. 218
William and Jeanette Clark, Item No. 221
William and Jeanette Clark, Item No. 222

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: Francis Morsey

Division Chief: _____

PK/PM:rdn

214.ZAC/ZAC1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
DATE: January 14, 1993

FROM: Rahee J. Famili
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: January 10, 1993
ITEM NUMBER: 221

Adequate off-street parking spaces must be provided.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJP/lvd

Department of Environmental Protection & Resource Management
Development Review Committee Response Form
Authorized signature _____ Date 1-20-93

| Project Name | Waiver Number | Zoning Issue | Meeting Date |
|---------------------------------|---------------|--------------|-----------------------------|
| J.F.O. Holding Corporation | | | |
| DEPRM RP STP | 213 | | 1-04-93 Written comments |
| Marshall and Mildred Whipperman | | | |
| DEPRM RP STP | 214 | | No comments |
| Joseph K. And Alva A. Pokorny | | | |
| DEPRM RP STP | 216 | | In process |

COUNT 3
William F. And Jeanette R. Clark
DED DEPRM RP STP TE 221
1-11-92
No comments

COUNT 1
Tyler B. and Loretta M. Anderson
DED DEPRM RP STP TE 218
1-11-93
No comments
Worthington Place L.P.
DED DEPRM RP STP TE 219
In process
AAI Corporation
DED DEPRM RP STP TE 220
No comments
William F. and Jeanette R. Clark
DED DEPRM RP STP TE 222
No comments
John F. Moore
DED DEPRM RP STP TE 223
In process

COUNT 5
Charles A. Wagandt
DEPRM RP 203
12-28-92
In process

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

JANUARY 13, 1993

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: WILLIAM F. CLARK AND JEANETTE P. CLARK

Location: #2501-A WENTWORTH ROAD

Item No.: +221 (LJC) Zoning Agenda: JANUARY 11, 1993

Centlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

BUILDING MUST COMPLY WITH APPLICABLE SECTIONS OF THE 1991 LIFE SAFETY CODE.

IF THIS BUILDING IS CONSIDERED A NEW USE, THEN BUILDING IS REQUIRED TO BE SPRINKLERED.

REVIEWER: Capt. Jerry R. G. ...
Planning Group
Special Inspection Division

JP/KEK

93-211-SPH
251 Comment

OPZ/Strategic Planning (Design Review Section)
Development Review Committee Response Form
Authorized Signature _____ Date 01/27/93

| Project Name | Waiver Number | Zoning Issue | Meeting Date |
|-----------------------------|---------------|--------------|--------------|
| Carl T. and Edward V. Julio | | | |
| DED DEPRM RP STP TE | 246 | Comment | 1-25-93 |

COUNT 9
Wyans Associates Limited Partnership
RP STP 208
Comment 12-28-92
Stephen Thomas Fox and Mary Catherine Wilson
221
NC
RP STP

COUNT 2
FINAL TOTALS
COUNT 26
*** END OF REPORT ***

Zoning Enforcement
Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Larry E. Schmidt
Zoning Commissioner
January 4, 1993

FROM: James H. Thompson - TLF
Zoning Enforcement Coordinator

SUBJECT: ITEM NO.: 221
PETITIONER: William F. & Jeanette R. Clark
VIOLATION CASE NO.: C93-251

LOCATION OF VIOLATION: 2501A Wentworth Avenue
Baltimore, Maryland 21234
9th Election District

DEFENDANT: William F. & Jeanette R. Clark
319 Hampton Street
Crawford, New Jersey 07016

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

| NAME | ADDRESS |
|------------|--|
| John McCoy | 2501 Wentworth Road, Apt. D Baltimore, Maryland 21234 |

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

JHT/TLF/cer

TO WHOM IT MAY CONCERN:

I, the undersign, William Barnes Hall, do certify that the following information is true and correct:

- I am now and have been at all times pertinent to this affidavit bbe sole stockholder of The Intercity Land Company.
- On April 30, 1920, The Intercity Land Company acquired title to property known as Lots 52,53 Block 19 as shown on the Plat of "Harford Park" which plat is recorded among the Land Records of Baltimore County in Plat Book WPC 5 folio 62. The improvement thereon being known as 2500 Hillcrest Avenue.
- On November 11, 1955, The Intercity Land Company conveyed the above mentioned lots 52.53 to William Barnes Hall, Incorporated, of which I was a stockholder.
- William Barnes Hall, Incorporated was the entity I used for construction of my land development business.
- In 1955-56 William Barnes Hall, Incorporated constructed an apartment building to house four(4) families after receiving zoning approval and all necessary permits. This property became known as 2500 Hillcrest Avenue, Baltimore County, Maryland.
- William Barnes Hall, Incorporated continued to own, rent and manage until December 24, 1970 when it was merged into The Intercity Land Company.
- The Intercity Land Company continued to own, rent and manage 2500 Hillcrest Avenue until June 29, 1971 when it was sold to John J. and Joan E. Drasta. See OTG No. 5198 folio 750.
- During the time 2500 Hillcrest Avenue was owned by William Barnes Hall Incorporated and by The Intercity Land Company (1955-1970) it was operated as a four family rental dwelling.

Witness my hand and seal on this 6th Day of JANUARY 1992

Witness:

David A. Hansen

William Barnes Hall
William Barnes Hall

SS:

STATE OF FLORIDA,
COUNTY OF COLLIER

Sworn and subscribed this 6th day of JANUARY 1992 before me, a Notary Public of the State of Florida, County of COLLIER, that the above named William Barnes Hall appeared before me and asserted that all the above facts and true and correct to the best of his knowledge.

NOTARY PUBLIC STATE OF FLORIDA
BY COMMISSION EXP. FEB. 11, 1993
BONDED THRU GENERAL ISS. USD.

Robert E. Langworth
NOTARY PUBLIC

TO WHOM IT MAY CONCERN:

I, the undersigned, William Barnes Hall, do hereby certify that the following information is true and correct:

- I am now and have been at all times pertinent to this affidavit, the sole stockholder of The Inter-City Land Company.
- On April 30, 1920, The Inter-City Land Company acquired title to property known as Lots No. 12 and 13, Plat of Final Subdivision Plan, Plat 1, Section C, Resubdivision Part of Section A Harford Park - see Plat Book GLB No. 19 folio 74.
- On November 11, 1955, The Inter-City Land Company conveyed the above mentioned Lots 12 and 13 to William Barnes Hall, Incorporated, of which I was the sole stockholder. See GLB No. 2828 folio 220.
- William Barnes Hall, Incorporated was the entity I used for construction in my land development business.
- In 1955-56 William Barnes Hall, Incorporated constructed an apartment building to house four (4) families, after receiving zoning approval and all necessary permits. This property became known as 2501 A Wentworth Road, Baltimore County, Maryland.
- William Barnes Hall, Incorporated continued to own, rent and manage 2501 A Wentworth Road until December 24, 1970, when it was merged into The Inter-City Land Company.
- The Inter-City Land Company continued to own and manage 2501 A Wentworth Road until July 29, 1971 when it sold the

property to John J. and Joan E. Drata. See OTG No. 5198 folio 750.

8. During the time 2501 A Wentworth Road was owned by William Barnes Hall, Incorporated and by The Inter-City Land Company (1956-1971) it was operated as a four family rental dwelling.

Witness my hand and seal this 10 day of November, 1991.

WITNESS:

Robert T. Thompson William Barnes Hall (SEAL)
Notary Public William Barnes Hall

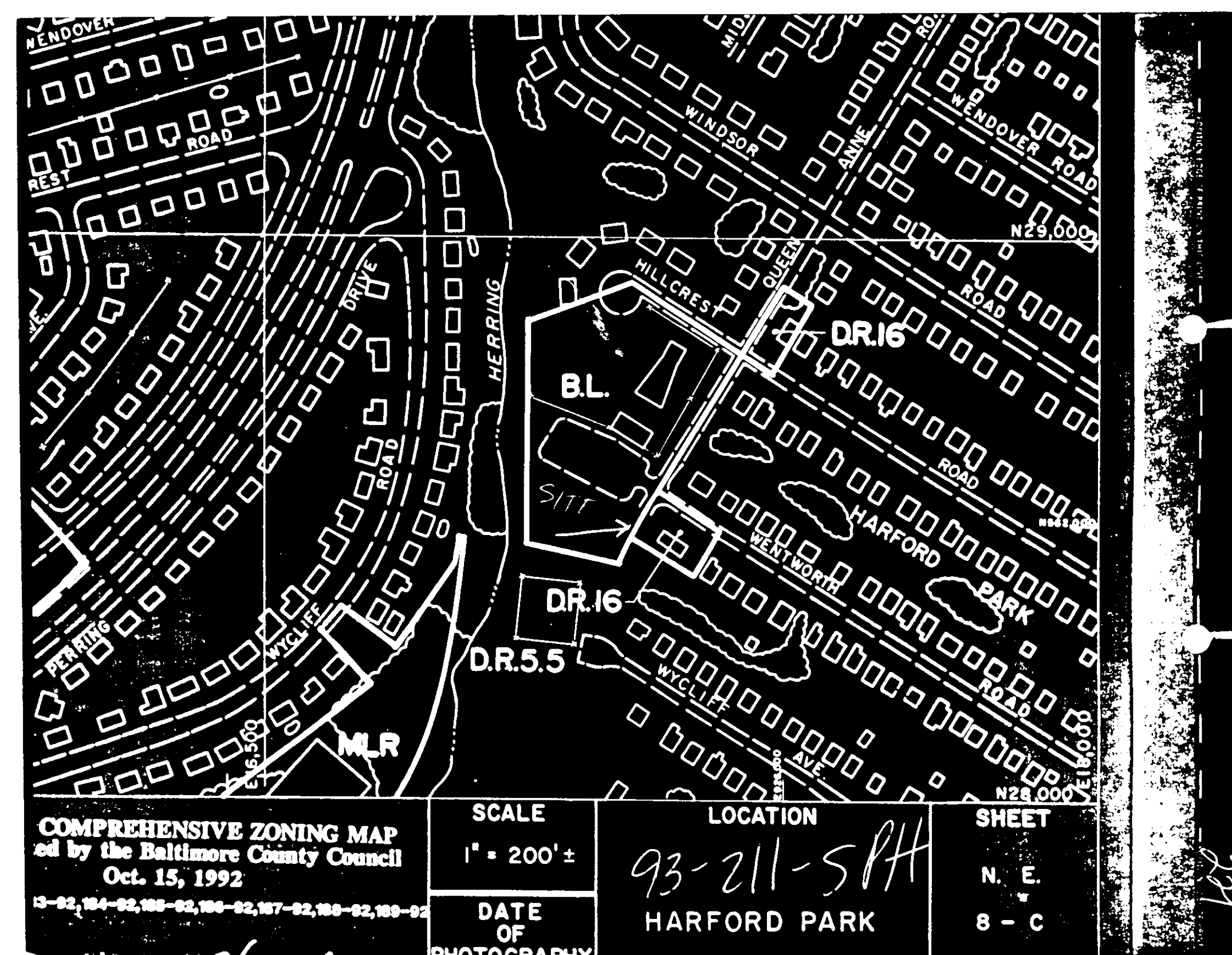
STATE OF FLORIDA,
COUNTY OF COLLIER SS:

Sworn and subscribed this 10 day of November, 1991 before me, a Notary Public of the State of Florida, County of COLLIER, that the above named WILLIAM BARNES HALL appeared before me and asserted that all the above facts and true and correct to the best of his knowledge.

Robert T. Thompson
Notary Public

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. FEB. 11, 1992
BONDED THRU GENERAL INS. UND.

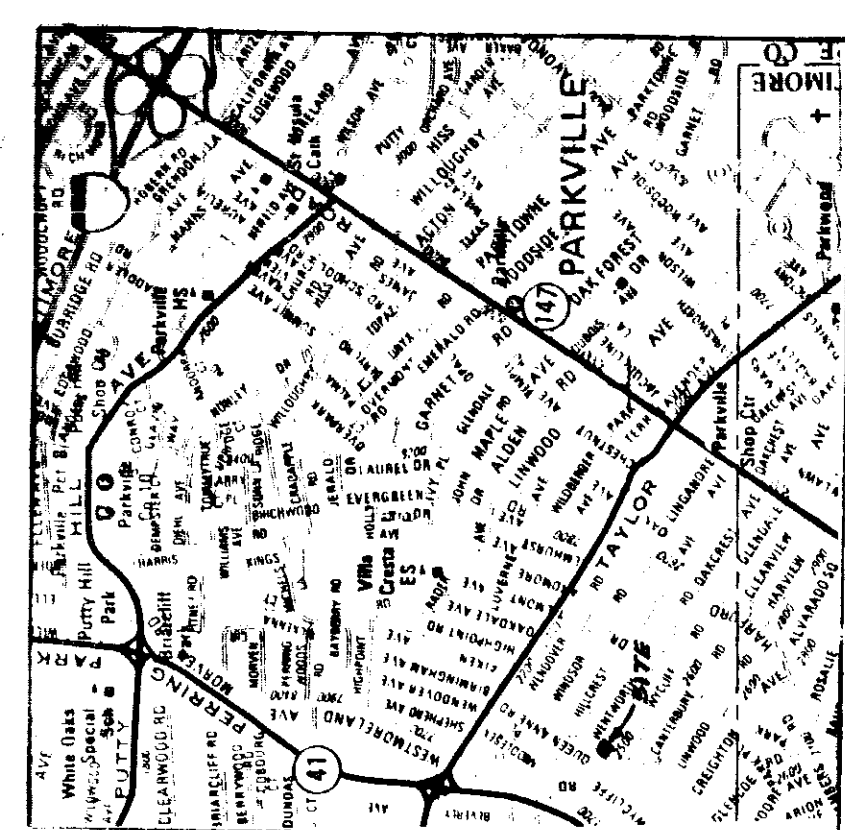




SILBERMAN and ASSOCIATES
Engineers • Surveyors
3527 East Joppa Road
Baltimore, Maryland, 21234
ph. 301-661-5888

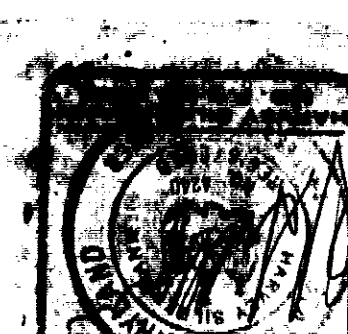
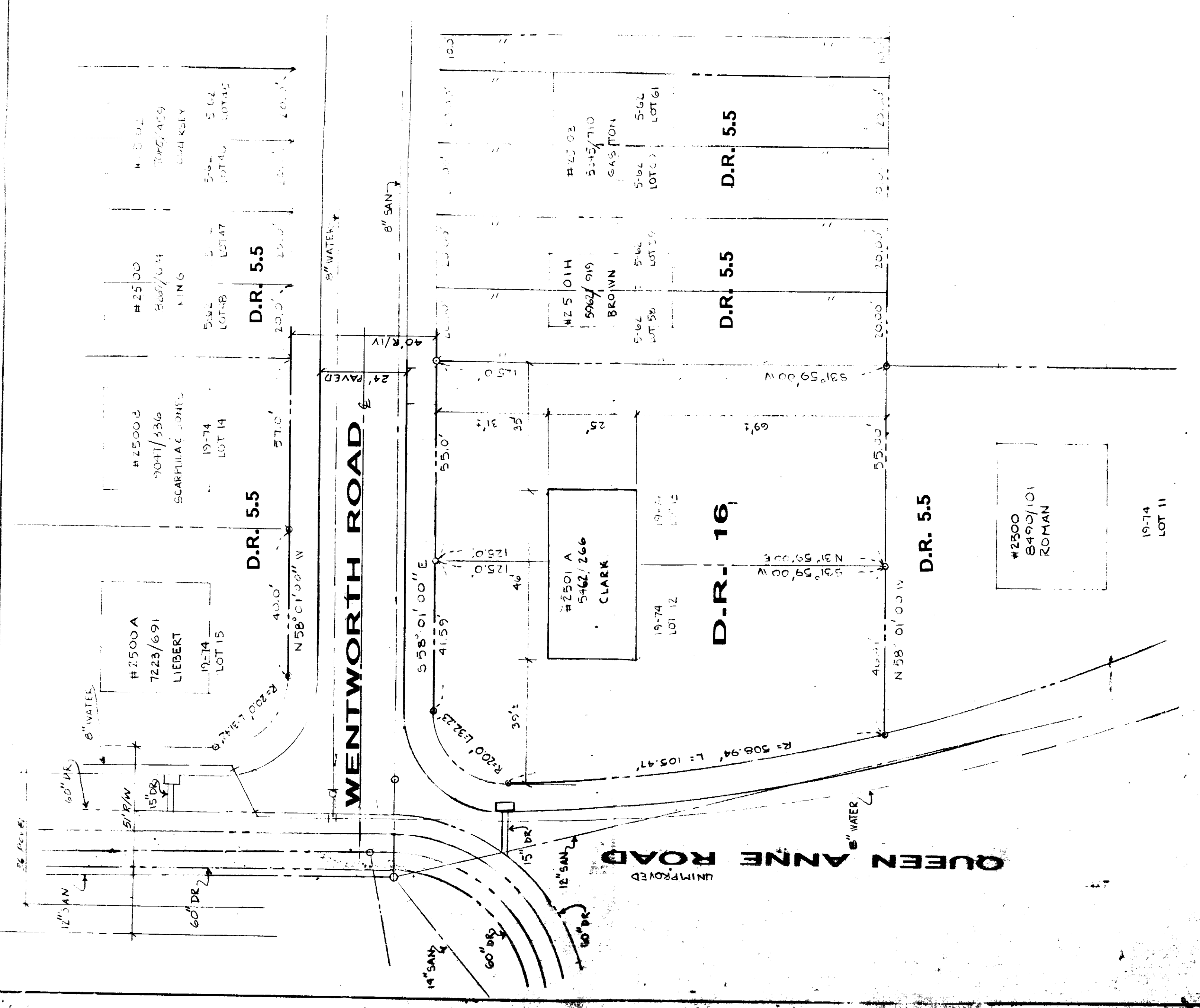
DATE: DEC. 21, 1992
PROJECT: RENOVATION OF EXISTING MULTIPLE FAMILY DWELLING
5501 A WENTWORTH ROAD
PLAT TO ACCOMPANY SPECIAL HEARING

PLS. NUMBER 91020
SHEET 1 OF 2



- GENERAL NOTES
1. ELECTION DISTRICT # 9
 2. COUNTY COUNCIL DISTRICT # 6
 3. OWNER'S NAME AND ADDRESS
 4. PROPERTY ADDRESS
 5. LOTING CASE # 1331, APRIL 1940 GRANTING MULTIPLE FAMILY DWELLING
 6. LOTING MAP BY E-C
 7. NO EXISTING OR PROPOSED SIGNS
 8. STRUCTURE LESS THAN 60 FEET IN HEIGHT
 9. PARKING NOT REQUIRED PER ZONING CASE # 1331, APRIL 1940
 10. PROPERTY ZONED D.R. 16
 11. HARBOR PARK SUBDIVISION
 12. AREA = 1380.474 SQUARE FEET = 0.3130 ACRES

93-211-5PT
RETRACTED
12/11/92



SILBERMAN and ASSOCIATES
Engineers • Surveyors
3527 East Joppa Road
Baltimore, Maryland, 21234
ph. 301-661-5888

DATE: DEC. 21, 1992
PROJECT: RENOVATION OF EXISTING MULTIPLE FAMILY DWELLING
5501 A WENTWORTH ROAD
PLAT TO ACCOMPANY SPECIAL HEARING

PLS. NUMBER 91020
SHEET 2 OF 2

